# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 6884 of 1998

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE SHARAD D.DAVE**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**EXECUTIVE ENGINEER (ROAD AND BUILDING) - Petitioner(s)**

**Versus**

**GOLAMRAZA BABASAHEB MOMI - Respondent(s)**

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**Appearance :**

HL PATEL ADVOCATES for Petitioner(s) : 1,
MR VM DHOTRE for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE**

**Date : 18/11/2005**

**CAV JUDGMENT**

1.By filing this petition, the petitioner has challenged the judgment and award dated 28.05.1998 passed by the Labour Court, Ahmedabad in Reference (LCA) No. 322 of

1993, by which the Labour Court has directed the petitioner to reinstate the respondent – workman on his original post with 50% back wages.

2. Heard the learned advocates for the parties and perused the material placed on record.

3. Having heard the learned advocates appearing for the respective parties and having perused the material placed on record, it can be seen that the respondent – workman has been reinstated in service on and from 4.12.1999. In that view of the matter, the question which is now required to be considered is with regard to grant of back wages to the respondent – workman.

4. It is required to be noted that the Labour Court has come to the conclusion that the respondent – workman has worked for more than 240 days in a year. The Labour Cout has also come to the conclusion that there is a clear breach of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (“the Act” for short). The Labour Court, after considering facts and circumstances of the case and appreciating the evidence on record, directed the petitioner to reinstate the respondent – workman in service with 50% back wages in view of the fact that the respondent – workman was earning Rs.200-300/- per month for his livelihood. As

stated above, the respondent – workman has already been reinstated in service on and from 4.12.1999. It is also required to be noted that it is not the case of the petitioner before the Labour Court that the petitioner has complied with the provisions of Section 25-F of the Act. The petitioner has also failed to establish the fact that the respondent was gainfully employed during the intervening period. Under the circumstances, interest of justice would be met if the petitioner is directed to pay 20% back wages to the respondent – workman for the intervening period.

5. In above view of the matter, this petition is partly allowed. The petitioner is directed to pay 20% back wages to the respondent for the intervening period instead of 50% back wages as awarded by the Labour Court, within a period of 2 months from today.

6. Rule is made absolute to the aforesaid extent. No costs.

( SHARAD D DAVE, J )

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